

Indiana Department of Education

Division of Exceptional Learners

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1841.01
COMPLAINT INVESTIGATOR:	Steve Starbuck
DATE OF COMPLAINT:	December 3, 2001
DATE OF REPORT:	January 14, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	February 19, 2002

COMPLAINT ISSUES:

Whether the Indianapolis Public Schools violated:

511 IAC 7-29-1(l) by failing to comply with IC 20-8.1-5.1-12 and IC 20-8.1-5.1-27 when suspending a student with a disability.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, failing to contact the student's therapist in accordance with the behavioral intervention plan.

The Complaint Investigation Report was originally due on January 3, 2002; however, due to the need to obtain additional information from the school, an extension was approved on January 2, 2002, by the state director of special education, extending the deadline until January 18, 2002.

FINDINGS OF FACT:

1. The student is eleven years old, attends the fifth grade, and has been determined eligible for special education due to an emotional disability.
2. The student was suspended from school on November 27, 2001, for three instructional days for refusing to go to his assigned classroom. The suspension notice dated November 27th indicates that the student was suspended for two instructional days for this incident, and that the student could not return to school until November 30, 2001. Although all parties acknowledge that the student's instructional day was interrupted on November 27th due to the suspension, the suspension notice and the attendance record do not reflect that this instructional day was counted as a day of suspension. The student was suspended for one other instructional day during the 2001-2002 school year; however, the student's attendance record only reflects that the student has been suspended from school for a total of three instructional days during the 2001-2002 school year.
3. The November 27th suspension notice lists the student's misconduct and the action taken by the principal. The principal reports that she had a meeting with the student to discuss the incident prior to suspending the student from school. The student's teacher and principal report that the student acknowledged being noncompliant with requests made of him to go to his assigned classroom. The principal states that on November 27th she gave the student a copy of the suspension notice to give to his mother. The suspension notice reflects that a message was left for the parent at her place of employment regarding this incident.

4. On December 13, 2001, the parent stated that she never received a copy of the November 27th suspension notice. On January 2, 2002, the parent stated that an IPD officer showed her a copy of the suspension notice while she was at the student's school on November 28, 2001. The parent acknowledges that she was quite upset during this school visit. The parent states she remembers being shown a copy of the suspension notice, but does not recall receiving a copy of the suspension notice on that date. The principal states the parent was given a copy of the suspension notice on November 28th during her visit to the school. An IPD officer's written statement indicates that on November 28th the officer discussed the suspension notice with the parent, and after the discussion, the parent placed the suspension notice in her purse.
5. The parent contends that the student's IEP was not implemented because the student's therapist was not contacted prior to suspending the student from school on November 27, 2001. The student's IEP dated January 16, 2001, includes a Behavioral Intervention Plan (BIP). The IEP has a starting date of January 16, 2001, and an ending date of January 16, 2002. The student sees a therapist from a community mental health center at school on a regular basis. The BIP dated January 16th specifies that the student's therapist will be contacted as a consequence strategy, crisis management intervention, or as support to staff when the student has difficulty coping with a situation or expressing anger. On November 27, 2001, the student had difficulty coping with the request made of him to go to his assigned classroom. The student refused to go to his assigned classroom, although asked to do so on numerous occasions by his classroom teacher and the principal. The student was suspended from school on this date due to his disruptive and noncompliant behavior; however, the student's therapist was not contacted as specified in the student's BIP. The principal states that student's therapist was not contacted during this incident because she did not feel this would be of benefit in resolving the problem, and that it was her understanding that implementation of the BIP was optional.

CONCLUSIONS:

1. Findings of Fact #2, #3, and #4 establish that the school did not suspend the student for more than ten school days, afforded the student a meeting before the suspension, and provided the student and parent with a copy of the suspension notice that indicated the student's misconduct and the action taken by the principal. Therefore, no violation of 511 IAC 7-29-1(l) is found as the school complied with the requirements specified in IC 20-8.1-5.1-12 and IC 20-8.1-5.1-27 when suspending a student with a disability from school.
2. Finding of Fact #5 reflects that school personnel failed to contact the student's therapist as required by the January 16, 2001, BIP prior to suspending the student from school on November 27, 2001. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Indianapolis Public Schools shall:

1. Inservice all appropriate school personnel as to their responsibility for ensuring that all IEPs and BIPs are implemented as written. Submit documentation to the Division no later than February 13, 2002, to verify that this has been completed. The documentation shall include a list or an agenda of

all issues discussed, any handouts that were distributed, and a list of attendees by name and title.

2. Convene a case conference committee (CCC) meeting to determine the need for compensatory services. The CCC Report shall reflect that the issue of compensatory services was thoroughly addressed by the CCC members. Submit to the Division no later than February 13, 2002, a copy of the CCC Report and any revised IEP.
3. Submit an assurance statement to the Division no later than February 13, 2002, assuring that all IEPs and BIPs will be implemented as written. The assurance statement shall be signed by the director and the principal.
4. Amend the student's attendance record to reflect that the student was suspended from school on November 27, 2001. Submit a copy of the student's amended attendance record to the Division no later than February 13, 2002.

DATE REPORT COMPLETED: January 14, 2002